



HM TREASURY

# Reforming Arm's Length Bodies

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**March** 2010





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# Contents

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	Page
Executive summary	3
Chapter 1 Introduction	5
Chapter 2 Streamlining the Arm's Length Bodies landscape	9
Chapter 3 New rules to reform the system	11
Chapter 4 Next steps	21
Annex A Summary of recommendations	23
Annex B Examples of existing best practice	25



# Executive summary

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*Smarter Government* set out the steps the Government will take to streamline central government, delivering £11bn of savings a year by 2012-13 and contributing to our deficit reduction plan. This includes £500m of savings from reforming the arm's length bodies (ALBs) landscape. The purpose of this document is to set out how we will secure these savings.

*Reforming Arm's Length Bodies* sets out a clear plan of action to introduce tough new requirements governing the foundation, activities, transparency and management of ALBs.

Arm's length bodies deliver many key public services and provide essential specialist advice to Government. Around £80 billion of public expenditure every year is through arm's length bodies, funding our universities and helping people get back into work, so it is critical that best value for money is delivered.

This document sets out a wide-ranging series of measures that will achieve this reform of ALBs, improving value for money and ensuring public services can be delivered more effectively at the same time.

- first, **the Government will save £500m by 2012-13 from ALBs.** The number of ALBs will be reduced by over 120. The Government will mutualise British Waterways to give waterways' users greater involvement in management of this asset. In addition, the Government will consider proposals to introduce a Bill at the earliest opportunity to enable further obsolete bodies to be wound up and functions to be stopped;
- second, the Government will create a new hurdle that departments must overcome in order to propose a new ALB. A new ALB must be absolutely the last option. **The justification for new ALBs will be published** so that the public can hold the Government to account for the decision. There should be a presumption that any legislation creating an ALB includes a 'sunset clause' to make sure it does not outlive its useful function;
- third, **ALBs will face new restrictions on using lobbying or PR consultants.** Duplication of any function between ALBs and departments will be cut;
- fourth, to enable the public to see how efficiently ALBs spend public money – and the proportion that goes on staff costs and back office functions – **ALBs will comply with new requirements of transparency;** and
- finally, the Government will ensure all ALB boards have the right skills and composition to drive value for money and challenge performance. There will be tough sanctions for failure at board level, including **potentially extending the Company Directors Disqualification Act to ALB Chairs and Chief Executives.**<sup>1</sup>

The Government can also announce the extension of the 20 per cent reduction in senior civil service costs announced in the Pre-Budget Report to cover senior staff at the equivalent level in Non-Departmental Public Bodies (NDPBs). These actions, with the comprehensive set of proposals in Chapter 3, will deliver important reforms over the next three years.

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<sup>1</sup> Excluding Executive Agencies, as they form part of central government departments and fall within normal accountability arrangements for Accounting Officers



# 1

## Introduction

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### Arm's length bodies in UK Government

**1.1** The United Kingdom has a long history of using arm's length bodies to deliver public services: the Met Office was created in 1854 and the Ordnance Survey was established in 1791. The UK's 1988 Next Steps programme saw around 130 ALBs established to increase efficiency in government delivery of public services (see Box 1.A). In the UK, ALBs are responsible for delivering a range of important public services and for advising Government on technical issues. They range from large, high-profile public services such as Jobcentre Plus and HM Courts Service to technical advisory bodies such as the Low Pay Commission. Around £80 billion of public money is distributed through arm's length bodies every year.

**1.2** Since 1997 the number of arm's length bodies has fallen. In addition, the Government has improved the delivery of services through ALBs by:

- **bringing together services to deal more effectively with new challenges**, for example, creating Jobcentre Plus out of the Employment Service and Benefits Agency, and establishing the UK Border Agency from the Border and Immigration Agency, customs detection work at the border from HM Revenue and Customs, and UK Visa Services from the Foreign and Commonwealth Office;
- **establishing clearer objectives and holding ALBs to account for performance**, for example through the introduction of Public Service Agreements (PSAs), and ensuring ALBs support local performance through measures such as the legal duty to cooperate with councils in Local Area Agreements;
- **investing in service transformation**, for example in Jobcentre Plus, where 98 per cent of benefits are now paid directly into customers' bank accounts (rather than by giro cheques and order books). This provides a more convenient, secure service, and has saved more than £1 billion in administrative costs over 5 years; and
- **improving accountability**, for example through the introduction of Freedom of Information legislation, and expanding the remits of the Parliamentary Ombudsman and the National Audit Office to cover more ALBs.

**1.3** Box 1.B provides a summary of arm's length bodies in the UK in 2010.

### Box 1.A: New Public Management and ALBs

New public management (NPM) reforms were introduced in a number of countries around the world during the 1980s and 1990s. These reforms were designed to address what is commonly known as the principal agent problem. Principal agent theory identifies factors that can affect the performance of organisations - in particular, information asymmetries and differing objectives between the principal (the person commissioning the service) and the agent (the person delivering the service). To overcome these and to ensure high performance, principal agent theory emphasises the importance of clear objective setting, the need to provide appropriate incentives within an organisation, and access to good information.

A key feature of NPM reforms is the setting up of ALBs. Initiatives such as the UK's 1988 Next Steps programme sought to align the interests of agents (those working to deliver government services) with the principal (the Government itself) by establishing a number of ALBs with a business-like focus on specific tasks. They had a strong focus on performance with target setting, monitoring and reporting. And they existed at arm's length from government, to provide autonomy – and share risks – over personnel, finance and other management matters.

Arm's length bodies are still a valuable part of the Government's provision of public services. But the NPM approach also carries a number of risks that we must respond to. As each body focuses on its individual task, it can be in danger of missing the wider picture and opportunities to link with other bodies to resolve long-standing issues. This can result in citizens experiencing services which are fragmented and which may not easily respond to complex needs.

To ensure ALBs deliver quality services to citizens, the Government must make sure target-orientated organisations do not focus on inputs and outputs, at the expense of outcomes for citizens. And the opportunities offered by new technologies must be seized upon to allow Government to deliver services more efficiently, and sometimes in a radically different way.

There are still 600 individual ALBs sponsored by the UK Government. There is a compelling case to challenge these bodies to join up better, to be more accountable to citizens and local communities, and increase the value they add to taxpayers' money. This process has already started with government initiatives such as Total Place and the Operational Efficiency Programme detailed in *Smarter Government*. In this document, government sets out new rules to redefine and reform the arm's length bodies landscape in a similar manner, with the new demands for smarter, leaner government.

## Next steps in reform: *Smarter Government*

**1.4** In *Putting the Frontline First: Smarter Government*, the Government set out an action plan to streamline the cost of central government. It outlined how the Government intends to improve public services while delivering its plan to halve the deficit over four years, in part through slower growth in spending. It identified that it would be possible to make substantial improvements in the value for money of arm's length bodies. This continues the work of the review of ALBs, established by the Chief Secretary to the Treasury as part of the Public Value Programme process in July 2009.

**1.5** As a first step in this work, *Smarter Government* announced a number of reforms:

- a reduction in the overall number of bodies by 123, including reducing the number of bodies that perform advisory or related functions by 25 per cent;

- savings of at least £500m by the introduction of stricter governance proposals, reducing duplication between organisations and streamlining the ALB landscape where appropriate; and
- extending the Capability Review approach to key ALBs to ensure that we can systematically assess their capability to meet future delivery challenges.

### Box 1.B: Arm's length bodies: facts and figures

There are currently over 600 ALBs<sup>1</sup> sponsored by the UK Government. They can be broken down into:

- **43 grant giving organisations** that distribute funding to frontline organisations or individuals. Examples include the Higher Education Funding Council and regional development agencies. These account for over 40 per cent of government expenditure through ALBs;<sup>2</sup>
- **152 service delivery bodies** including Jobcentre Plus and National Offender Management Service accounting for over 50 per cent of expenditure;<sup>3</sup>
- **52 regulators**, for example Ofgem and Ofsted. These account for just over one per cent of expenditure;
- **319 advisory bodies** which provide expert advice across a range of topics, for example the Committee on Standards in Public Life and the Committee on Climate Change, and account for less than one per cent of ALB government expenditure; and
- **19 tribunals**, which provide an appeal system against administrative acts or decisions. Together, they account for less than one per cent of ALB government expenditure. Examples include the Police Arbitration Tribunal.

Government expenditure through ALBs, excluding benefit payments, is around £80bn per annum. A large proportion of this – around two-fifths – is directly channelled through bodies to provide grant funding to front line projects, for example to support road maintenance or to fund universities.

**1.6** The Government has conducted a review of its existing ALBs, identifying where savings can be made through immediate efficiencies and rationalisations. These are set out in Chapter 2. Delivering better value for money in the long term is about making the system self-sustaining so that *all* ALBs are set up and continue to be run in the best interests of the taxpayer. This includes ensuring that departments who sponsor them provide both the support and scrutiny to encourage continuous improvement in service delivery and efficiency. Following initial discussions with departments, arm's length bodies, and external commentators, this document sets out how this can be achieved through:

- tightening the start up process to ensure new ALBs are only created when this represents the most efficient means of delivery;
- improving the relationship between departments and ALBs to avoid duplication and cost; and

<sup>1</sup> This figure takes into account the 123 reduction in ALBs announced as part of Smarter Government in 2009. Our definition of 'arm's length body' includes Non-Departmental Public Bodies (NDPBs) as classified by Cabinet Office, excluding Independent Monitoring Boards of Prisons, but with the addition of Executive Agencies and Non-Ministerial Departments (such as OfGEM).

<sup>2</sup> The category 'grant giving organisations' is a broad one and may encompass organisations that also undertake sector development, for example Homes and Communities Agency.

<sup>3</sup> Museums and galleries are included in this category

- new requirements to improve the management and accountability of ALBs.

**1.7** The rationalisations in Chapter 2, together with the tougher operating environment set out in Chapter 3, will save at least £500m per year by 2012-13.

**1.8** These new rules build on existing arrangements that hold ALBs formally accountable for their use of public money. The accounting officers of every ALB and department must comply with the responsibilities set out in *Managing Public Money*. They must also comply with their responsibilities of accounting to Parliament, in particular to the Public Accounts Committee (PAC),<sup>4</sup> and the National Audit Office (NAO).<sup>5</sup>

**1.9** Two ongoing HM Treasury consultations – the Corporate Governance Review and the Internal Audit Transformation Project – will set out further recommendations to improve governance and accountability across departments and ALBs. The recommendations made in this document should be considered alongside these other reviews.

**1.10** These rules apply to centrally funded bodies covering the UK or England.<sup>6</sup> The ALBs of devolved administrations are not in scope. We will continue to discuss implementation of these recommendations with stakeholders. Details of how to submit comments can be found in the final chapter of this document.

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<sup>4</sup> The PAC can hold public hearings on the accounts of ALBs that are laid before Parliament. Normally, these hearings focus on the findings of NAO Value for Money reports (see footnote 5 below). The outcomes of PAC hearings are published in the form of a report. The Government aims to provide a detailed and considered response within two months of publication.

<sup>5</sup> The NAO conducts financial audits of a number of ALBs and reports to Parliament on the value for money with which public bodies have spent public money. The NAO presents around 60 Value for Money reports to Parliament each year. These focus on the ‘three E’s’ of Value for Money: economy (i.e. minimising the cost of resources used or required), efficiency (i.e. the relationship between the output from goods or services and the resources used to produce them), and effectiveness (i.e. the relationship between the intended and actual results of public spending).

<sup>6</sup> Public corporations, public broadcasting authorities and state owned companies or enterprises are actively considered under the Operational Efficiency Programme: Assets work and are therefore outside the scope of this document.

# 2

## Streamlining the Arm's Length Bodies landscape

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### Reviewing Arm's Length Bodies

2.1 The Chief Secretary to the Treasury announced a review into all arm's length bodies in July 2009. This review challenged all government departments to streamline the ALBs they sponsor.

### Rationalisations in *Smarter Government*

2.2 *Smarter Government* set out a first list of ALBs to be merged or abolished, subject to the necessary legislation and consultation:

- abolish 16 regional advisory committees relating to agricultural workers in England and the 15 regional committees in England that appoint each of them;
- rationalise the 101 Advisory Committees on Justices of the Peace to 49;
- reduce the number of Court Boards from 23 to 19;
- reduce the number of separate publicly funded bodies in the skills sector by 30 over the next three years;
- merge the Sentencing Guidelines Council and Sentencing Advisory Panel into a single Sentencing Council;
- merge four existing military museums into the new National Museum of the Royal Navy;
- merge the Postgraduate Medical Education and Training Board with the General Medical Council; and
- abolish HM Inspectorate of Courts Administration.

2.3 These actions reduced **the overall number of ALBs by 123** and cut the number of bodies performing advisory or related functions by 25 per cent. Further reductions are outlined below and in Budget 2010.

### Streamlining the ALB landscape further

2.4 As a result of further work, the Government can announce additional reforms as follows, subject to necessary consultation and legislation:

- **mutualising British Waterways in England and Wales<sup>1</sup>** giving the waterways' users and the communities that live alongside a greater say in how they are managed and reducing the long-term public liability by transferring responsibility for waterways maintenance to the third sector (see Box 2A below);

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<sup>1</sup> The Scottish Government will decide if British Waterways in Scotland should be part of the new structure, taking account of the further work still to be undertaken on structures and governance

- **bringing together HM Courts Service and the Tribunals Service** to create in April 2011 a single unified agency, subject to legislative approval;
- abolishing the National Community Forum;
- abolishing the Committee on Agricultural Valuation;<sup>2</sup>
- merging the Meat Hygiene Service into the Food Standards Authority; and
- Thurrock Thames Gateway Development Corporation will be incorporated into the Homes and Communities Agency.<sup>3</sup>

**2.5** The Government can also announce the extension of the 20 per cent reduction in senior civil service costs announced in the Pre-Budget Report 2009 to cover senior staff at the equivalent level in non-Departmental Public Bodies (NDPBs).<sup>4</sup>

**2.6** The Government will continue to keep individual arm's length bodies under review to identify further opportunities for reform.

#### **Box 2.A: Mutualising British Waterways**

Since publication of the OEP asset portfolio in December 2009, the Government has been looking at the appropriate structure for British Waterways as a whole. The work has concluded that it would be desirable to **mutualise British Waterways in England and Wales**<sup>5</sup>, giving the waterways' users and the communities that live alongside a greater involvement in how they are managed, and reducing the public sector's long-term liability for their maintenance.

There are a number of possible forms for a mutual. At present the favoured option is a charitable trust responsible for managing waterways assets on a long lease with the non-operational property endowment held in a 'charity locked' arrangement. However further work is needed to identify the exact form of mutual and the detail of its governance and relationship with government. In undertaking this work, the Government's objectives will be to:

- ensure robust governance arrangements and purpose so waterways assets and the public benefits they bring are protected now and in the future;
- develop a governance structure that allows all users, local communities and other stakeholders to hold the new body to account; and
- put the waterways on a long-term sustainable footing while reducing the ongoing cost to the taxpayer.

A full consultation will take place on the scope and details of the model.

<sup>2</sup> Subject to the necessary consultation and legislation.

<sup>3</sup> This will take full effect from April 2011, see source: <http://www.communities.gov.uk/news/planningandbuilding/1432943>

<sup>4</sup> This reduction will be achieved over a three year period.

<sup>5</sup> See footnote 1

# 3

## New rules to reform the system

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### What are the barriers to ALBs delivering better value for money?

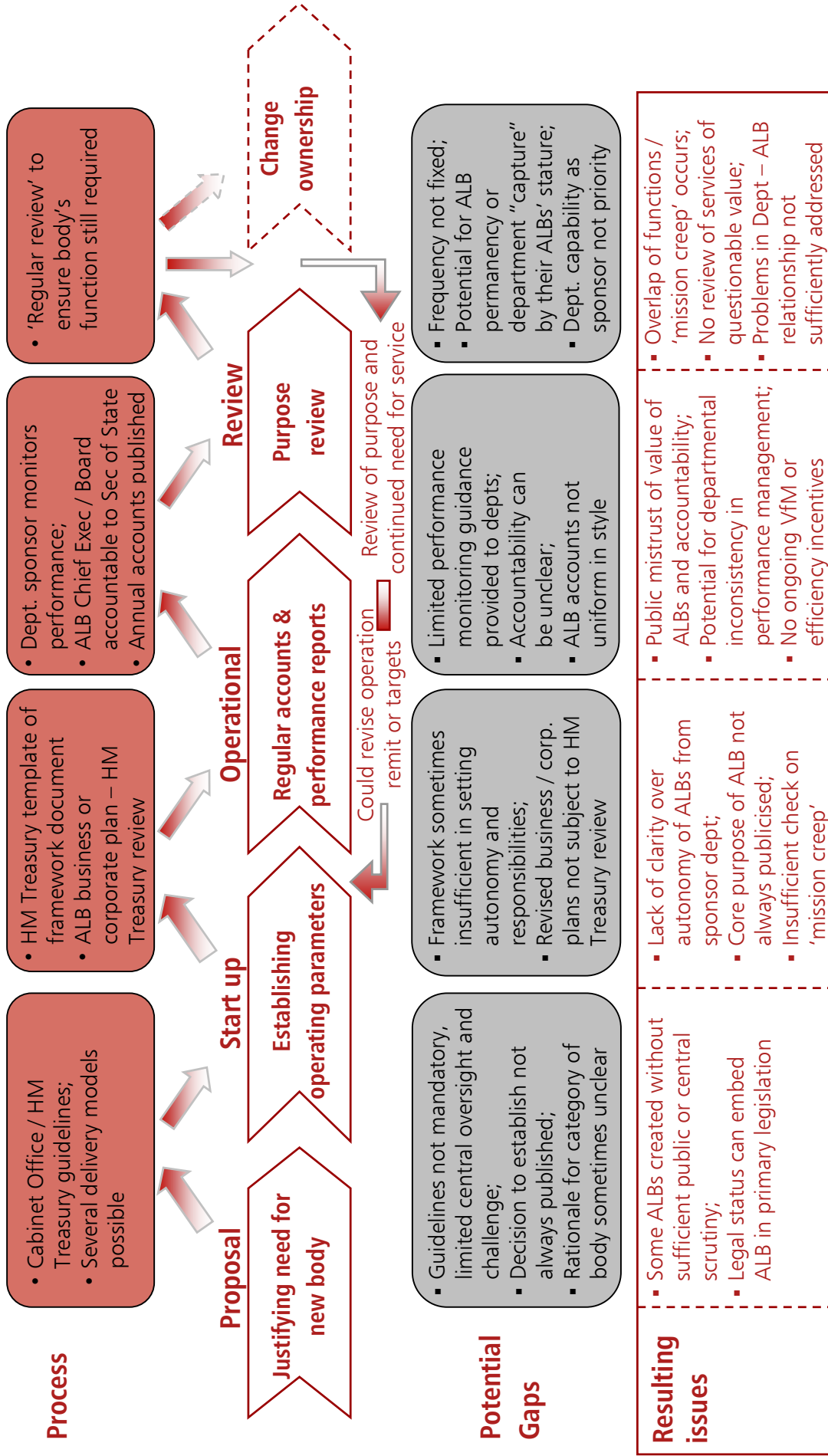
**3.1** Over the past 13 years, the Government has driven through a number of reforms to improve the delivery of services through ALBs and to increase transparency and accountability. But there is scope to go further – to make sure ALBs can deliver better services more efficiently, and to seize the opportunities offered by digital technologies.

**3.2** Discussions with departments, ALBs, and external commentators suggest that individual ALBs are in general efficient, well-run organisations. But excess cost and inefficiency can emerge at the boundary between departments and ALBs, and between ALBs and other organisations. Work to date has suggested four principal problems:

- **it can be easier to set up a new arm's length body, rather than fit functions into existing bodies.** A new organisation must only be introduced as a last option and must be designed to drive value for money;
- **it can be insufficiently clear where the boundary of responsibilities is drawn between a department and an ALB.** The presumption should be that ALBs are given clear objectives and the operational freedom to deliver results, and be properly held to account for their performance. Departments may need to constrain ALBs' freedoms in order to achieve wider objectives, but this should be clearly specified. Lack of clarity can lead to the costs of duplication and micro-management by the Government departments and need to absolutely rule this out;
- **accountability mechanisms rely too much on top down rather than bottom up measures.** More transparency will enable citizens and Parliament to be sure ALBs are providing value for money and take action if they feel that they are not; and
- **performance management focuses too much on box-ticking** and too little on supporting senior managers, building capabilities and dealing swiftly with failure.

**3.3** Chart 3.A below maps these problems onto the life cycle of an ALB. In many cases improvement is principally a case of sharing existing good practice among ALBs and departments more widely. Organisations such as the Association of Chief Executives (ACE) and the Public Chairs' Forum play an important role in this. The Government believes that more can be done to share best practice. To support this, Annex B sets out a series of examples of best practice that departments and ALBs should consider adopting in their organisations. But the Government's assessment is that sharing best practice alone will not achieve the transformation that *Smarter Government* envisaged. This chapter therefore outlines a set of rules that will drive forward further reform.

Chart 3-A: Mapping the process and issues arising across the arm's length body lifecycle



## **Tighter start-up process to ensure new ALBs are only created when this is the most efficient means of delivery**

**3.4** The start-up process for a new ALB is critical. It is more efficient to set up an ALB properly, with clear accountabilities and objectives, than to have to make changes once it is already operating, particularly if the body is specified in primary legislation. Costs arise if departments do not consider how a new body fits with existing ALBs, or if they have put in place mechanisms and legislative barriers that prevent reform as priorities change.

### **Rule 1: Departments to publish a thorough Value for Money assessment for all new ALBs**

**3.5** To ensure new ALBs are only set up as the last option:

- departments must produce a thorough business case, showing that other options have been considered and ruled out on value for money grounds. The business case should address the points set out in Box 3.A and Table 3A<sup>1</sup>;
- the business case should detail how any new ALB will deliver operational efficiency through sharing back office functions with existing ALBs or departments, and efficient use of the government estate<sup>2</sup>;
- the business case will be robustly reviewed by a group of experts, including representatives from business, to provide a critical challenge. The final decision to approve will remain between a department's minister and HM Treasury; and
- departments will publish each business case and the final decision in full so that the process is transparent and open to public scrutiny.

### **Rule 2: Departments to ensure any legislation establishing new ALBs includes sunset clauses**

**3.6** To enable government to ensure that the functions ALBs deliver remain the most important to the public and are organised to deliver best value for money:

- The presumption should be that any primary legislation for a new ALB must include a sunset clause indicating the date at which the body will be fundamentally reviewed and wound-down if necessary<sup>3</sup>; and
- legislation should also include provisions that allow for the relevant Secretary of State to transfer functions or confer additional functions<sup>4</sup> to make sure bodies are flexible enough to respond to emerging challenges.

**3.7** Any bill put before the Legislation Committee<sup>5</sup> proposing a new ALB that does not meet this rule will be rejected. In addition, to ensure value for money in the government estate, the Government will require all leases to include a provision that allows the property to be used for

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<sup>1</sup> A business case – addressing the points in Box 3A - should also be produced when two or more ALBs are to be merged. Government would expect that any proposal for a merger would cover VfM considerations as a matter of course.

<sup>2</sup> Further recommendations in this area are made in Ian Smith's review of relocations, *Relocation: Transforming where and how government works*

<sup>3</sup> Where the government has ongoing policy responsibilities, sunset clauses may not be appropriate. However, clauses to transfer or confer additional functions should continue to be included. In all cases, thought should be given at the outset to the appropriate arrangements to set up covering staff re-deployment and / or redundancy compensation in the case of a body being wound down.

<sup>4</sup> This should only follow from discussion and agreement with an ALB's Chief Executive, and must be made fully transparent by publishing the amendment to a body's framework document with the department. A minister will remain accountable to Parliament for ensuring bodies are effective in spending public money.

<sup>5</sup> The Legislation Committee is the Government's Ministerial Committee on Legislation that considers and approves decisions involving proposed government legislation and related matters.

any government activity. This will allow departments to maximise use of existing estate capacity, reducing vacancy or lease breakage penalties caused by changes to their ALBs landscape.<sup>6</sup>

#### **Box 3.A: Minimum Requirements for an ALB business case<sup>7</sup>**

- An analysis of the need to undertake the function at all, with a robust analysis of whether the function could be better undertaken within existing public sector capacity, either in the proposing department, other government departments, or another arm's length body, or in the private or third sector. Departments should also illustrate they have considered alternative ownership structures such as mutuals or community interest companies;
- proposals for how a new body will ensure operational efficiency and minimise unnecessary cost, including through sharing estates and back office functions, location outside of London and the South East, and co-location with bodies that perform similar functions or operate across similar policy areas (see table 3A below);
- a clear statement of the expected costs involved in setting up the new ALB, details of the anticipated benefits and an explanation of how both costs and benefits will be measured and controlled, including staff costs such as remuneration; and
- an exploration of the most appropriate spatial level for the body or function to operate, assessing the merits of establishing a national body, sponsored by central government, versus the potential for delivery of a function or service at local or regional level.

### **Rule 3: Government to conduct a cross-Whitehall exercise to develop a one-off Bill to tidy up outdated legislation and enable obsolete bodies to be wound up**

**3.8** Obsolete or inflexible legislation often prevents departments and ALBs from achieving sensible rationalisations and sharing of services. For example, primary legislation prevented National Savings and Investments from taking on additional work outsourced from central government. Government has had to wait eight months for space in the legislative timetable to push through proposals that could save around £5 million a year. So the Government will undertake a cross-cutting project to identify areas where existing legislation constrains specific ALBs from achieving significant efficiencies. This should identify:

- obsolete bodies and functions that could be wound up;
- areas where new powers or remit could be granted to bodies where it would improve their ability to deliver cost efficiencies and take on additional functions of government; and
- cases where separate naming of bodies in statute is constraining existing reorganisation plans.

**3.9** The proposed bill would be considered in the Government's legislative programme in the normal way.

<sup>6</sup> This general government use clause is intended for generic office estates of ALBs, and will clearly not be appropriate for exceptional property such as prisons or similarly specialised buildings.

<sup>7</sup> In exceptional circumstances, a new body may be required very quickly. As a result, it may not be feasible to justify all of these points in the timeframe permitted. In these cases, the first resort should be to enter temporary operating procedures, for example with the body intermediately being located within the proposing or another department. If this is not possible, the body's long term business plans should be reviewed as soon as possible post-creation in line with the above principles.

## Improve relationships between departments and ALBs to avoid duplication and cost

3.10 The quality of the sponsor department’s relationship with its arm’s length bodies is one of the most important factors in enabling ALBs to perform well and provide value for money. The Government’s assessment is that too often these relationships lack certainty over what level of support and challenge each side can expect from the other. Instead, by clearly setting out the parameters within which departments and ALBs operate, arm’s length bodies can be set free to deliver high quality public services while being held properly to account.

### Rule 4: ALBs required to comply or explain with new rules limiting what they can do, with restrictions around marketing and lobbying

3.11 Framework agreements are a critical tool in formally establishing how departments and ALBs will operate and interact with each other. To make these more effective, the Government will:

- require each framework document to set out the limits of ALB autonomy and departmental responsibility; and
- require framework documents to address the presumptions outlined in the table below on a ‘comply or explain basis’<sup>8</sup> and for ALBs to comply with specified prohibitions.

**Table 3.A: Prohibitions and presumptions for Departments and ALBs**

Prohibitions for ALBs	
- ALBs must not use public funds to employ external public affairs or other consultants to lobby Parliament or Government <i>with the principle aim</i> of altering government policy or to obtain increased funding <sup>9</sup> ;	- no ALB should provide sponsorship of commercial events <sup>10</sup> ; - ALBs must comply with Government conventions on publicity and advertising <sup>11</sup> ; - ALBs must not use PR consultants <sup>12</sup> without the specific approval of their parent department.

<sup>8</sup> The ‘comply or explain’ basis will allow both departments and their ALBs to set out any exemption(s) and provide greater autonomy over certain areas of operational policy where there is a **clear business case for doing so**.

<sup>9</sup> This should not be interpreted to prevent ALBs acting in an advisory capacity or from fulfilling objectives set out in Royal Charter or statute that relate to advocacy or promoting understanding of sectors.

<sup>10</sup> This refers to ALBs **providing** corporate sponsorship for certain activities, as opposed to receiving corporate sponsorship. The latter can provide alternative sources of income, for example in the museum sector. This prohibition does not apply to sponsorship of a nonprofit or charitable event, nor joint initiatives undertaken with the private sector where they are primarily intended to serve a public purpose.

<sup>11</sup> An outline of the conventions is available on the Cabinet Office website at <[http://www.cabinetoffice.gov.uk/propriety\\_and\\_ethics/civil\\_service/government\\_information\\_service/workgis.aspx](http://www.cabinetoffice.gov.uk/propriety_and_ethics/civil_service/government_information_service/workgis.aspx)>

<sup>12</sup> The term ‘PR consultants’ includes marketing or other consultants.

<b>Presumptions for ALBs – comply or explain</b>	
<ul style="list-style-type: none"> <li>- No duplication of policy functions between ALB and department;</li> <li>- shared back office functions with other organisations or government department;</li> <li>- use existing shared services, such as the Government Banking Service;</li> <li>- not based in London / South East, except for face-to-face services and unless there is a VfM case through sharing estates;</li> <li>- property should be held in the name of the sponsoring department and should allow use for any government activity;</li> <li>- all e-channels should be organised via direct.gov or business.gov;</li> </ul>	<ul style="list-style-type: none"> <li>- expenditure on organisational brand and marketing to be set out in ALBs' business plans and accounts, and outcomes indicated;</li> <li>- senior pay must be agreed with HM Treasury (in line with senior pay remit);</li> <li>- all advisory bodies should have a finite life;</li> <li>- no organisations should require primary legislation to be abolished, although their functions may be set out in primary legislation;</li> <li>- no separate tribunals are to be set up but should become part of the Tribunals Service (MoJ)<sup>13</sup>; and</li> <li>- separate legal status should not be conferred on bodies with fewer than 20 staff or with a budget lower than £1 million.</li> </ul>
<b>Department Charter – Prescriptions for departments</b>	
<ul style="list-style-type: none"> <li>- publish the framework agreement and business case for the ALBs they sponsor;</li> <li>- benchmark departmental sponsorship functions with other departments and publish details of the size and resource of the sponsorship function in departmental reports / accounts;</li> <li>- no duplication of functions between ALBs or between ALBs and sponsor department;</li> <li>- ensure financial systems encourage ALBs to join up or work closer together with other bodies and offer support or links to expertise where ALBs wish to jointly procure or share services;</li> </ul>	<ul style="list-style-type: none"> <li>- allow ALBs to re-invest savings from their annual grant-in-aid budgets over several years where a compelling business case is presented (i.e. for larger projects bringing long-term efficiency gains);</li> <li>- review structure of ALBs periodically – at periods to be agreed with HMT, appropriate to organisation size, remit, function and performance; and</li> <li>- not to set up an ALB without submitting a business case (to Cabinet Office and HM Treasury) which sets out the costs and benefits and why the model is optimal for achieving policy objectives.</li> </ul>

**3.12** Departments should make sure they comply with the Department Charter above at the earliest opportunity. As a priority, all departments should review their sponsorship functions and activities to rule out duplication between the department and the ALBs they sponsor. Departments will be expected to report back on action in this area at the next Spending Review. If ALBs note any duplication of their core functions in the department, they should raise this with the relevant Permanent Secretary.

**3.13** Framework documents should be fully reviewed at least every three years, or when the functions of an ALB significantly change. It should also be reviewed if the Chief Executive or Chair changes. When this framework review next occurs, existing ALBs and their sponsor department will be expected to comply with the above presumptions, or make the case for their exemption from individual requirements.

<sup>13</sup> It is Government policy that central government tribunals should move over to the Tribunals Service and the First-Tier and Upper Tribunals established under the Tribunals Courts and Enforcement Act 2007. The aim here is to create a single first-instance tribunal, subject to a consistent set of rules with a single judiciary and administrative support.

## Rule 5: All departments to introduce a systematic process for reviewing ALBs

**3.14** Departments and ALBs should conduct periodic reviews to ensure they continue to be best placed to meet the challenges ahead. Past reviews, such as Quinquennial Reviews, have been poorly timed, and involved disproportionate cost and failed to identify that different organisations need different approaches. To ensure a more systematic review process, the Government requires that:

- departments set out a risk-based review plan, covering each of their ALBs identifying strategic risks for each body<sup>14</sup>, and the most appropriate interventions and timescales. Depending on the risk they represent, over a three year period, each ALB will be subject to either:
  - simple reviews of the framework document and relevant performance data;
  - an organisational review examining the efficiency and capability of the body. The Cabinet Office will extend the Capability Review approach to key ALBs (see box 3B); or
  - a full purpose review, asking questions of whether the need for the body remains. In this case departments will need to consider whether a body's primary function is still one that the taxpayer should be funding, or if it could be more efficiently performed by other existing ALBs or private sector firms.
- The department should share their review plans with HM Treasury for sign off at each Spending Review.

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<sup>14</sup> For example, these could include financial and budget forecasts, immediate targets towards outcomes and delivery of core programmes, satisfactory risk assessment and management procedures being in place to anticipate and react to potential unforeseen events, the presence of internal audit arrangements in ALBs, and adequate and appropriate skills at Board level.

### Box 3.B: Capability Reviews for ALBs

Cabinet Office will extend the Capability Review approach to key ALBs, as set out in *Smarter Government*. A new model of capability was developed for government departments in July 2009.<sup>15</sup> Capability Reviews are:

- conducted by independent external reviewers;
- based on a departmental self assessment, complemented with fieldwork involving input from staff, stakeholders and the top management team;
- published with assessment against the model; and
- sponsored by the Cabinet Secretary and departmental management teams.

This process may need to change to make it appropriate to ALBs. Cabinet Office would welcome stakeholders' views on:

- when Capability Reviews should be used, for example if an organisational review is needed as set out in 3.14;
- which aspects of the current **model** of capability should apply to ALBs and whether this would vary with size (i.e. for very small ALBs the Capability Review model and approach might not be cost-effective);
- the right **methodology** for ALB reviews including views on who should sponsor reviews, the number of reviewers and scale of fieldwork); and
- whether initial ALB reviews can be followed up with a sustainable process for **re-review** and assurance, and who should manage and support this.

## Increase transparency so that it is easier for the public, local bodies and Parliament to hold ALBs to account

**3.15** One of the best ways to ensure ALBs deliver value for money is to make them transparent and accountable to citizens. Providing more information, more often, means citizens and Parliament are able to see how money is being spent and whether it has delivered better public services.

### Rule 6: Require ALBs to publish extensive financial and performance information

**3.16** The Government will require every ALB to publish more information, more often, including:

- how the body is funded and who is responsible for setting its budget;
- the salary of senior executives and the process by which this is agreed. As set out in the Pre-Budget Report 2009, the Chief Secretary to the Treasury will approve all pay levels in excess of £150,000 for all civil service appointments and appointments to public sector bodies subject to Ministerial approval. For public sector bodies (or individual board appointments) where Ministerial approval is not required, all organisations making senior managerial appointments in excess of £150,000 should publicly justify this level to the relevant Secretary of State; and
- information on their operational performance, including on HR, finance and property costs, and staff numbers and costs.<sup>16</sup>

<sup>15</sup> This can be accessed at: [http://www.civilservice.gov.uk/Assets/Model%20report%20final\\_tcm6-8285.pdf](http://www.civilservice.gov.uk/Assets/Model%20report%20final_tcm6-8285.pdf).

<sup>16</sup> Any data released should abide by the government data principles, and be machine readable and re-usable by third parties.

**3.17** ALBs should be included within any release of further financial information that results from the commitment to greater public sector transparency in *Smarter Government*.

### **Rule 7: Require ALBs to publish, where relevant, how they engage with local public bodies, such as local authorities**

**3.18** Some ALBs operate purely at a national level. But in many cases, successful performance involves engaging with local public bodies to help them achieve their Local Area Agreements (LAAs). To make sure this happens, the Government will:

- require ALBs to publish how they intend to engage with local areas, including:
  - those objectives that apply to local communities or individuals (see Box B.E in Annex B for a current best practice example);
  - shared areas of responsibility and how the ALB will co-operate with local delivery partners (see box B.F in Annex B for current best practice example); and
  - where ALBs are subject to a legal duty to co-operate with LAAs, an account of the number of LAAs and the number of LAA commitments they are signed up to.
- ALBs whose activities have a local impact should, where appropriate, allow members of the public to attend board meetings and rotate the location of board meetings to regional offices where they exist.

### **Strengthen and simplify corporate governance to improve focus on best value for money**

**3.19** Governance – the system of ensuring clear responsibilities and accountabilities – is critical to the performance of all organisations. Chairs, Chief Executives and Non-Executive Directors of ALBs need to be clear what they are there to do, and be held to account if they fail to perform.

### **Rule 8: ALB boards must be streamlined, with the right skills and composition to drive value for money and challenge performance**

**3.20** To make sure boards are functioning effectively and offering the best value for money, the Government will:

- review guidance on the roles of the Chair and Chief Executive. This will make sure that the roles and responsibilities of each are absolutely clear;
- ensure that departments agree with their ALBs' objectives for their Chief Executive, ensuring clarity and a strong focus on driving continued efficiency gains<sup>17</sup>;
- improve induction for Board appointees, through better training and access to mentoring schemes;
- do more to secure talented Non-Executive Directors (NEDs) from a range of backgrounds. In future, all NED vacancies will be advertised in one place, to provide a one-stop shop for anyone interested in taking up a non-executive role.

**3.21** These actions will be taken in consultation with relevant organisations such as the Association of Chief Executives (ACE) and the Public Chairs' Forum.

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<sup>17</sup> For example, this could require objectives to be set annually to improve assessment of the measure of success or otherwise for ALB board members, especially the CEO. Such objectives would include their performance around Accounting Officer duties, delivery, alignment with departmental values and objectives, and the Value for Money focus of their organisation.

## **Rule 9: Support departments to raise their game in sponsoring and holding ALBs to account**

**3.22** Even where there are good relationships between senior staff and clear lines of accountability, unnecessary costs can creep in if staff attempt to micro-manage performance through excessive data requests or fail to engage and understand the ALB's business. Departments should not seek to duplicate the functions of their ALBs, but should ensure that ALBs are properly sponsored. Equally, ALBs need to understand the context within which they operate. The Government will ensure that quality of departmental sponsorship is reflected in Departmental Capability Reviews – and action is taken to address any issues.

## **Rule 10: Tougher sanctions for failure, including potentially extending the Company Directors Disqualification Act to ALB Chairs and Chief Executives**

**3.23** ALBs need the clarity and freedoms to deliver effectively, but when they fail the Government needs the tools to act swiftly. The ongoing HM Treasury Review of Corporate Governance will make recommendations in relation to the appointment, performance management and dismissal of senior management across departments and ALBs. Alongside these, the Government will:

- review and re-issue existing model Codes of Conduct for boards and staff of public bodies to make duties, responsibilities and accountability clearer.<sup>18</sup> Codes should form part of the terms and conditions of appointment or employment to ensure that they are enforceable and that board members and staff are held to account for their actions; and
- Chief Executives and Chairs of ALBs should be open to disqualification from office in the same way their private sector counterparts are. The Government will consider ways to impose sanctions so that the threat of disqualification applies to Chief Executives and Chairs of ALBs, and will also consider extending sanctions imposed by the Company Directors Disqualification Act 1986 to prevent disqualified company directors from becoming a Chair, Chief Executive or NED of an ALB.<sup>19</sup>

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<sup>18</sup> Staff who are civil servants will continue to be bound by the Civil Service Code.

<sup>19</sup> Subject to and pending the relevant legislative amendments. Executive Agencies will be excluded from this provision as they form part of central government departments and fall within normal accountability arrangements for Accounting Officers.

# 4

## Next steps

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**4.1** Over the coming months, the Government will discuss with any interested stakeholders how we intend to take forward the new rules we have set out. In the first instance, these rules will apply to any new arm's length body. Where proposals affect individual existing ALBs, departments will make sure their stock of ALBs comply with any new arrangements within a three-year timeframe.

**4.2** The Government welcomes comments on the new rules set out in this document. These should be directed to: [armslengthbodies.review@hmtreasury.gsi.gov.uk](mailto:armslengthbodies.review@hmtreasury.gsi.gov.uk)

**4.3** For specific enquiries about Cabinet Office work on extending Capability Reviews, please contact the Capability Reviews Team at: [capabilityreviews@cabinet-office.x.gsi.gov.uk](mailto:capabilityreviews@cabinet-office.x.gsi.gov.uk).





# Summary of recommendations

## **Tighter start-up process to ensure new ALBs are only created when this is the most efficient means of delivery**

### **Rules:**

- departments to publish a thorough value for money assessment for all new ALBs, setting out how ALBs will achieve operational efficiency through sharing back office functions and efficient use of the government estate;
- departments to ensure any legislation establishing new ALBs includes sunset clauses; and
- government to conduct a cross-Whitehall exercise to assess whether a one-off Bill to tidy up outdated legislation and enable obsolete bodies to be wound up would be worthwhile.

## **A tighter relationship between departments and ALBs to avoid duplication and cost**

### **Rules:**

- new rules limiting what ALBs can do, with restrictions around marketing and lobbying; and
- all departments to introduce a systematic process for reviewing ALBs, to be signed off by HM Treasury.

## **New transparency so that it is easier for the public, local bodies and Parliament to hold ALBs to account**

### **Rules:**

- require ALBs to publish more information, more often, about their performance; and
- require ALBs to publish, where relevant, how they engage with local public bodies, such as local authorities.

## **Strengthen and simplify corporate governance to improve focus on best value for money**

### **Rules:**

- all ALB boards to be streamlined, with the right skills and composition to drive VfM and challenge performance;
- support departments to raise their game in sponsoring and holding ALBs to account; and
- tougher sanctions for failure, including potentially extending sanctions in the Company Directors' Disqualification Act to ALBs Chairs and Chief Executives.



# B

## Examples of existing best practice

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**B.1** The Government considers that substantial efficiencies can be achieved simply by encouraging all ALBs to match the performance of the very best. Organisations like ACE and the Public Chairs' Forum play a valuable role in helping ALBs to learn from each other. The Government challenges these and other organisations to develop innovative ways of sharing good practice. In addition, it encourages departmental sponsorship teams to learn from each other.

**B.2** To begin this process, this annex outlines some examples of best practice based on initial discussions.

### **Box B.A: Examples of best practice – world class service delivery: the Insolvency Service**

The Insolvency Service is an Executive Agency of the Department for Business, Innovation and Skills (BIS). It provides the legal framework and the means for dealing with financial failure in the economy and the misconduct that is often associated with it. The Service has around 3,000 staff and an annual turnover of around £200 million, about three quarters of which is earned in fees for the delivery of services, and the remainder is funded through BIS.

The Service's core work involves administering the estates of bankrupts and the affairs of companies that the courts have wound up compulsorily for the benefit of their creditors. Last year, the Service took on 71,000 new cases. The Insolvency Service also operates the Redundancy Payments Service (RPS) on behalf of HM Revenue & Customs. This makes statutory payments from the National Insurance Fund to employees made redundant as a result of the insolvency of their employer and processed over 160,000 claims last year.

Despite the difficult circumstances that usually surround bankruptcy and redundancy, the Service has achieved a 'good' or 'very good' satisfaction rating from 90 per cent of its customers. In January 2009, at the height of the recession, the RPS dealt with claims from former Woolworths employees after the company went into administration – representing the largest single company case that RPS had ever had to deal with. Payments were processed and made to over 22,000 former employees in an average of just four working days.

The Insolvency Service, working in close partnership with BIS, leads on insolvency law and Government policy, as well as regulating the insolvency practitioner profession through seven self-regulating recognised professional bodies. Britain's insolvency regime is considered to be among the best in the world. This is demonstrated by the World Bank, who have ranked it 9<sup>th</sup> out of 181 countries for the efficiency of its procedures for closing a business, 14<sup>th</sup> for the speed with which it deals with troubled businesses, and 9<sup>th</sup> for the amount it recovers for creditors.

### **Box B.B: Examples of best practice – service transformation: Jobcentre Plus**

Launched in April 2002, **Jobcentre Plus** brought together the Employment Service and parts of the Benefits Agency that delivered services to working age people. This brought a stronger focus on the link between work and benefits, and more cohesive support in helping people into work and employers to fill their vacancies. Since its creation, Jobcentre Plus has:

- Helped over nine million people into work;
- Halved the level of fraud in Income Support and Jobseekers Allowance (JSA);
- Modernised its payments - for example it now pays 98 per cent of benefits directly into customers' bank accounts (rather than by giros) providing a more convenient, secure service, and saving more than £1 billion over five years;
- Delivered excellent customer service – despite a doubling in JSA workloads since April 2008, it has managed higher workloads efficiently and is currently meeting all six of its key performance targets; and
- Offers customers one of the most popular websites in government, with over 950,000 job searches every working day.

### Box B.C: Examples of best practice - Memorandum of Understanding (MoU)

Departments and ALBs should consider creating a **Memorandum of Understanding**, which should set out the principles of joint working. This will help to build a consensual, open relationship that also minimises overlap or duplication of work undertaken. Adapted from an MoU used by the Homes and Communities Agency,<sup>1</sup> the main issues a Memorandum of Understanding between a department and ALB could usefully set out are as follows:

- **key shared outcomes** – for departments and ALBs, this may be a particular Public Service Agreement, policy commitment or statutory duties;
- **a presumption towards sharing information** – including briefings on any emerging issues detected, and sharing what information is being gathered by each party to identify duplication or to combine data collection if appropriate;
- **consultation on matters of common interest** – this should set out the key areas of common interest to both sides, and set out who should lead on them. At the same time it should commit the lead organisation to consulting the other on these shared policy or delivery interests to avoid competing or duplicating activity;
- **co-ordinated decision making and joint responses** – parties should commit to involve and inform each other where decisions are being made that are of significant impact to an ALB or department's concerns. This should include setting a protocol for rapid information sharing and liaison if a crisis occurs, detailing how co-ordinated decisions can be rapidly achieved and communicated to stakeholders;
- **board and executive liaison** – for example an agreement for board / senior management to meet at minimum intervals (e.g. every six months) and attend each other's board meetings at similar minimum intervals.

The MoU does not need to be lengthy, since it represents a high-level, principles-based set of commitments, but should be reviewed periodically to ensure it remains relevant.

<sup>1</sup> This has been adapted from an existing MoU between two NDPBs operating in a similar area of policy and service delivery, the Homes and Communities Agency and Tenant Services Authority. See HCA website, <[http://www.homesandcommunities.co.uk/public/documents/HCA\\_TSA\\_Memorandum\\_of\\_Understanding.pdf](http://www.homesandcommunities.co.uk/public/documents/HCA_TSA_Memorandum_of_Understanding.pdf)>.

**Box B.D: Examples of best practice – ALB reviews: DEFRA and the Food and Environment Research Agency (FERA)**

DEFRA and FERA have been working on improving strategic oversight and review of FERA’s activities in a way that is helpful to both parties, developing an approach that is non-bureaucratic and based on regular dialogue and discussion.

Directors of FERA meet periodically with DEFRA Programme Senior Responsible Officers to undertake a joint review of the work of FERA and the relationship with the department, focussing on five specific themes:

- **engagement:** this assesses the engagement of the Agency in the policy cycle, making sure that evidence is gathered in a timely way and ideas and information are being shared for the benefit of the Department as a whole;
- **financial security:** this provides an opportunity for the financial performance and VfM of FERA’s activity, programme by programme, to be assessed. The emphasis is on financial and resource planning, rather than annual budgets;
- **quality:** this provides an overall assessment of programme delivery against specified milestones, for example considering whether work within each programme is being undertaken to plan, to budget and to specification;
- **end Customer Focus:** this assesses how well the Department and the Agency are working together to put the end customer at the heart of their work;
- **DEFRA Customer Satisfaction:** periodic assessments are used to assess the Department’s satisfaction with the Agency, broken down across programme activity.

A quarterly picture of the performance of programmes against these themes is produced and illustrated in a ‘traffic-lighted’ table, e.g.:

Programme	Engagement	Financial security	Quality	End customer focus	Defra customer satisfaction
Programme A					
Programme B					

*(these ratings are purely illustrative)*

This picture then enables rapid assessment of whether any one programme or theme is of concern. The system also encourages day-to-day engagement and dialogue between DEFRA and FERA and helps to foster a common sense of purpose between the ALB and sponsor department.

### **Box B.E: Examples of best practice – citizen accountability: The Environment Agency Customer Charter**

The Environment Agency publishes a Customer Charter. The document is intended for a range of audiences (from businesses or clients, to members of the public making inquiries). The Charter sets out the standards of service that customers can expect from the Agency and how these are measured. For example on:

- The maximum number of days within which customers will receive written responses to enquiries made to the Agency;
- The amount of advance warning customers can expect for flood warnings; and
- The number of working days within which customers can expect to receive licences across all areas of business the Agency regulates.

Additionally, this Charter states how customers can provide feedback on the quality of service they have received.<sup>2</sup>

### **Box B.F: Best practice in local engagement – The Environment Agency and Communities**

The Environment Agency works closely with people and communities to create better places and to help people enjoy the environment and the benefits this can bring. They also work to protect people from environmental risks, including flooding, and work within communities to develop shared solutions and to enable them to take action to manage their own risk.

The Environment Agency makes information available on the state of the local environment, and how they monitor and control the releases produced by industrial processes, through the “*What’s in your backyard*”<sup>3</sup> section of their website. They also provide information on how to prepare for environmental risks such as flooding on their website’s flood pages.

The Agency works with local councils on a wide range of issues, including:

- helping to deliver on 70 Local Area Agreement targets in England, particularly those that have targets relating to flooding, adaptation to climate change and waste<sup>4</sup>;
- participating in Local Strategic Partnerships in England and Local Service Boards in Wales to share information and expertise;
- working with local authorities to champion climate change adaptation; and
- advising on Local Climate Impact Profiles and improving flood warning at a parish level.

The Agency has recently put an added emphasis on the need to engage on flood risk directly at a community level through the appointment of eight Community Engagement Officers in 2009. These officers work at a community level through regional Local Resilience Forums (LRFs) and engage with local communities and individuals in areas at risk of flooding to raise awareness, develop skills, and empower individuals and communities to take action to manage their flood risk. Evidence to date indicates that this community-level approach has helped increase awareness of flood risk by over ten per cent during 2009-10.

<sup>2</sup> Source: <<http://www.environment-agency.gov.uk/aboutus/customercharter/default.aspx>>

<sup>3</sup> Source: <[http://maps.environment-agency.gov.uk/wiyby/wiybyController?ep=maptopics&lang=\\_e](http://maps.environment-agency.gov.uk/wiyby/wiybyController?ep=maptopics&lang=_e)>

<sup>4</sup> Flooding targets involve National Indicator 189, while climate change adaptation is linked with National Indicator 188.





## HM Treasury contacts

This document can be found in full on our website at:

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If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence and Enquiry Unit

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)

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